PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

| Applica | nt's or agent's file reference | | | <u> </u> | | | | | |
|---|---|-------------------------------------|----------------------------|--|--|--|--|--|--|
| F03 | 17PCT | FOR FURTHER A | CTION | See Form PCT/IPEA/416 | | | | | |
| Internati | ional application No. | International filing da | te (day/month/year) | Priority date (day/month/year) | | | | | |
| PCT | /JP2004/00362 | 3 18.03.200 | 4 | 19.03.2003 | | | | | |
| Internati | International Patent Classification (IPC) or national classification and IPC | | | | | | | | |
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| Applica | | | | | | | | | |
| KANEBO COSMETICS INC. | | | | | | | | | |
| | | | | | | | | | |
| 1. | 1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36. | | | | | | | | |
| 2. | . This REPORT consists of a total of 4 sheets, including this cover sheet. | | | | | | | | |
| 3. | | | | | | | | | |
| | a. (sent to the appl | licant and to the International Bi | ureau) a total of 1 | sheets, as follows: | | | | | |
| | sheets of t | he description, claims and/or dra | wings which have been | amended and are the basis for this report and/or | | | | | |
| | sheets con Instruction | | by this Authority (see Ru | ule 70.16 and Section 607 of the Administrative | | | | | |
| | sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. | | | | | | | | |
| | | | | | | | | | |
| | b (sent to the Inter | rnational Bureau only) a total of | (indicate type and numb | er of electronic carrier(s)) | | | | | |
| | , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see | | | | | | | | |
| | | Administrative Instructions). | is indicated in the Supple | emental Box Relating to Sequence Listing (see | | | | | |
| 4. | This report contains indicat | ions relating to the following iter | ms: | | | | | | |
| | Box No. I B | asis of the report | | | | | | | |
| | Box No. II Pr | riority | | | | | | | |
| | Box No. III N | on-establishment of opinion witl | h regard to novelty, inven | ntive step and industrial applicability | | | | | |
| | Box No. IV L | ack of unity of invention | | | | | | | |
| | Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement | | | | | | | | |
| | Box No. VI Certain documents cited | | | | | | | | |
| Box No. VII Certain defects in the international application | | | | | | | | | |
| | Box No. VIII Certain observations on the international application | | | | | | | | |
| Date of submission of the demand Date of completion of this report | | | | | | | | | |
| | basingsion of the demaild | | Date of completion of the | ms report | | | | | |
| Name and mailing address of the IPEA/JP | | | Authorized officer | | | | | | |
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| Facsimile No. | | | Telephone No. | | | | | | |

Translation

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/JP2004/003623

| Box | No. I | | Basis of the report | | | | |
|-----|---|---------------------|--|--|---|--|--|
| 1. | | | to the language, this report is based on the internation der this item. | nal application in the language in | which it was filed, unless otherwise | | |
| | This report is based on translations from the original language into the following language which is the language of a translation furnished for the purposes of: | | | | | | |
| | | | international search (Rule 12.3 and 23.1(b)) | | | | |
| | | | publication of the international application (Rule 12.4) international preliminary examination (Rule 55.2 and/ | | | | |
| 2. | With | | to the elements of the international application, this | | sheets which have been furnished to the | | |
| | recei | iving O report): | ffice in response to an invitation under Article 14 are | e referred to in this report as "c | originally filed" and are not annexed to | | |
| | | the in | ternational application as originally filed/furnished | | | | |
| | \boxtimes | | escription: | | | | |
| | | pages | 1-108 | | as originally filed/furnished | | |
| | | pages | • - | received by this Authority on | | | |
| | | pages | * | received by this Authority on | | | |
| | \boxtimes | the cla | aims: | | | | |
| | | nos. | 1-16,18-22 | | as originally filed/furnished | | |
| | | nos.* | | as amended (togeth | er with any statement) under Article 19 | | |
| | | nos.* | 17 | received by this Authority on | 18.01.2005 | | |
| | | nos.* | | received by this Authority on | | | |
| | | the dr | awings: | | | | |
| | | sheets | 3 | · - · | as originally filed/furnished | | |
| | | sheets | * | received by this Authority on | | | |
| | | sheets | * | received by this Authority on | | | |
| | | a sequ | uence listing and/or any related table(s) – see Suppleme | ental Box Relating to Sequence 1 | Listing. | | |
| 3. | | The a | mendments have resulted in the cancellation of: | | | | |
| | | | the description, pages | | | | |
| | | | the claims, nos. | | | | |
| | | | the drawings, sheets/figs | | | | |
| | | | the sequence listing (specify): | | | | |
| | | | any table(s) related to sequence listing (specify): | | | | |
| 4. | | This they h | report has been established as if (some of) the amendance been considered to go beyond the disclosure as file. | ments annexed to this report and ed, as indicated in the Suppleme | d listed below had not been made, since ental Box (Rule 70.2(c)). | | |
| | | \sqcup | the description, pages | | | | |
| | | | the claims, nos. | | | | |
| | | | the drawings, sheets/figs | | | | |
| | | | the sequence listing (specify): | | | | |
| | | | any table(s) related to sequence listing (specify): | | | | |
| * | If ite | т 4 ар | plies, some or all of those sheets may be marked "supe | erseded." | | | |

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| Во | | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement | | |
|----|-------------------------------|---|------|------|
| 1. | Statement | | | |
| | Novelty (N) | Claims | 1-22 | YES |
| | | Claims | | _ NO |
| | Inventive step (IS) | Claims | 1-22 | YES |
| | | Claims | | _ NO |
| | Industrial applicability (IA) | Claims | 1-22 | YES |
| | | Claims | | NO |
| | | | | |

2. Citations and explanations (Rule 70.7)

Documents 1 and 2 listed below are cited in the international search report.

Document 1: WO 01/015658 A (Kanebo, Ltd.)

Document 2: US 2567110 A (Corning Glass Works)

Document 1 discloses a cosmetic prepared according to the formula [(CH3)₃SiO]₃SiCh₃ (hereinafter referred to as "compound 2") which exhibits excellent volatility and feeling to the touch as well as excellent stability and the aforementioned compound 2 and the compound [(CH3)₃SiO]₄Si (hereinafter referred to as "compound 1") set forth in the present application have identical chemical structures with the exception of one substituent group that bonds to the silane group.

Moreover, document 2 (column 5 and examples 20-21) indicates that both compound 1 and compound 2 are prepared using some of the same starting materials.

However, (1) document 2 does not make any suggestion that the aforementioned compound is used as a cosmetic substance and (2) it is clear from the disclosures in embodiment 12 and comparative example 23 and example 17

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

and comparative example 29 on page 73 of the present description that, compared with compound 2, compound 1 is remarkably superior in terms of being a cosmetic substance. Therefore, although the chemical structures of both compounds are similar, the significant characteristics of compound 1 as a cosmetic substance could not have been expected.

Consequently, the inventive step of the invention set forth in this application cannot be denied.